

### **Pension Rights Repeal Unconstitutional**

In *David Piccioli v. The Board of Trustees of the Teachers' Retirement System*, the Illinois Supreme Court found that legislation that allowed employees of a statewide teachers union to receive pensions from the Teachers' Retirement System ("TRS"), a pension fund generally established to provide pensions to public school teachers, was not "special legislation." Additionally, the Court found that when the General Assembly repealed the legislation allowing union employees to receive a pension from TRS in response to public outcry, the retroactive repeal violated the Illinois Constitution's pension protection clause.

In 2007, the Illinois General Assembly passed Public Act 94-1111, which stated that any employee of a teachers union who had a teacher's license as of the date the statute was adopted, and who worked for at least one day as a teacher, could receive a pension from the TRS for service performed as a union employee. David Piccioli, a lobbyist for the Illinois Federation of Teachers, held a substitute teacher's license, worked one day as a substitute in the Springfield schools, and subsequently became eligible for a pension from TRS. When the facts of Mr. Piccioli's pension were reported in the *Chicago Tribune*, public outcry led the General Assembly to repeal Public Act 94-1111. Included in the repeal was a retroactive clause, which stated that the Act was repealed retroactively to the date of its adoption. TRS thereafter returned contributions made on his behalf to Mr. Piccioli and informed him he was not eligible for a pension. Mr. Piccioli sued the TRS to restore his pension rights.

The trial court found in favor of TRS, finding that the Public Act 94-1111 was "special legislation," that is legislation that improperly affected only a few select persons, instead of being of general applicability. Mr. Piccioli appealed to the Supreme Court, which overturned the decision of the trial court, finding that Public Act 94-1111 was not special legislation, and additionally that its retroactive repeal improperly violated the pension protection clause of the Illinois Constitution.

The Supreme Court found that although Public Act 94-1111 did, in fact, affect only a few people in the State of Illinois, it was nonetheless a law of general applicability. It determined that although the law did discriminate in favor of people in the state who held a teachers license prior to 2007, this discrimination was not arbitrary, as there was a permissible state rationale for providing a cut-off date in 2007.

Having determined that Public Act 94-1111 was not unconstitutional when it was adopted, the Supreme Court then determined that repealing the Act retroactively had the effect of stripping a pension benefit from Mr. Piccioli. Pursuant to the Illinois Constitution, no law may be passed which reduces a pension benefit payable from the state. Because Mr. Piccioli had been promised a pension benefit through Public Act 94-1111, the state could not retroactively repeal the law and eliminate that promised benefit.

This case shows the breadth of the Illinois Constitution's protection of employee pension rights. If you have any questions about your pension rights, please contact our office.

ASHER, GITTLER & D'ALBA, LTD.  
200 West Jackson Boulevard, Suite 720  
Chicago, IL 60606 – 312.263.1500

© 2019 Asher, Gittler & D'Alba, Ltd.  
All rights reserved.  
Dated: May 20, 2019

This release informs you of items of interest in the field of labor relations. It is not intended to be used as legal advice or opinion.

U.S. News & Report's Best Law Firms Designation is for Chicago Tier 1 rankings in Employment Law (Individuals), Labor Law (Union), and Litigation (Labor and Employment) and a National Tier 2 ranking in Litigation (Labor and Employment).

